

**Summary of Testimony of
Commissioner William L. Massey
Federal Energy Regulatory Commission
Before the Subcommittee on Energy and Air Quality
United States House of Representatives**

**Washington, D.C.
March 20, 2001**

I am very concerned about the behavior of California's electricity market, including high and volatile prices, and its effects on consumers there and throughout the West. Power that cost Californians \$7 billion in 1999 may cost \$70 billion this year. This threatens the political consensus necessary to sustain a market-based approach to regulation, not just in California but across the country. The following factors are affecting the electricity market in California and the west: (1) inadequate infrastructure, (2) a number of market design defects, such as too much reliance on the spot market, (3) a lack of demand responsiveness to price, (4) a substantial increase in natural gas prices, and (5) the exercise of market power by sellers.

California is taking the following actions: (1) entering long term contracts with generators, (2) streamlining somewhat the siting of generation, and (3) adopting an energy conservation program aimed at reducing peak load by 3,200 MWs this summer. California may be creating a new stranded cost problem by signing contracts that are too long and at too high a price given the current unsettled market. California must also increase the responsiveness of demand to price signals. California may decide to purchase the transmission assets of its three major investor owned utilities. I am indifferent whether the state or private interests owns the transmission assets as long as they are placed under the control of a Regional Transmission Organization.

The Commission should take the following actions: (1) a temporary cost-based price cap on spot market sales in the western interconnection calculated on a generator-by-generator basis at each generator's variable operating costs plus a reasonable capacity adder, exempting new generation sources; and (2) insist on good market structure, including a single RTO for the Western interconnection, demand responsiveness to price, and substantial forward contracting at reasonable prices. Ensuring just and reasonable prices in wholesale markets requires that we clearly define market power, and aggressively intervene when the markets are not producing reasonable prices. The Commission's actions to date have been insufficient.

Federal legislation is needed in the following areas: (1) place all interstate transmission under one set of open access rules, (2) Commission authority to require the

formation of RTOs and to shape their configuration, (3) mandatory reliability standards, (4) FERC authority to site new transmission facilities, and (5) direct authority for the Commission to mitigate market power in electricity markets.

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Mr. Chairman and Members of the Subcommittee on Energy and Air Quality:

Thank you for the opportunity to testify on the subject of the problems facing the California electricity market. The Federal Energy Regulatory Commission has been moving the electricity industry to a structure that relies on well-functioning wholesale markets to produce an economic and reliable supply of electricity for the nation. In supporting that policy, my expectation continues to be that markets will produce consumer benefits and lower prices over the long term compared to cost of service regulation. The recent events in California and the West present a significant challenge to that expectation.

I am very concerned about the recent behavior of California's electricity market and its effects on consumers there and throughout the West. I cannot overstate the enormity of this market catastrophe. Power that cost California \$7 billion in 1999 increased to over \$27 billion last year. Costs for 2001 may exceed \$70 billion. This severely threatens the political consensus necessary to sustain a market-based approach to regulation, not just in California but across the country. The Commission must act forcefully and decisively to reassure market participants, policymakers and consumers

that jurisdictional wholesale markets will produce consumer benefits and just and reasonable rates. Among other things, FERC must immediately declare a time out.

I. The Causes of Market Disruptions

A. Infrastructure

The western electricity markets are in the midst of a serious market disruption. California has experienced extraordinarily high and volatile electricity prices in the last ten months and has skated on the edges of power outages for most of the winter. Other areas of the West have also seen very high wholesale prices, in part due to the problems in California. These are the symptoms of the problems. What are the problems?

I think most observers agree on a number of factors that have affected the electricity market in California and the West. First and foremost among the causes is inadequate infrastructure. Whether it be due to regulatory uncertainty, siting restrictions, process inertia, or simply poor judgment, not enough generation has been built over the last few years to keep pace with demand. There has also been a significant lack of rainfall in the West such that normal hydroelectric generation levels are unavailable. Transmission constraints, especially along the notorious Path 15 in California, have played a role in local supply shortages and high prices. The critical transmission infrastructure has not kept pace with the needs of the electricity market.

B. Market Design

California also suffered from a number of defects in market design. For example, a combination of rules resulted in creating an incentive for under scheduling in day ahead markets. Scheduling imprecision is to be expected to some degree, but my understanding is that deliberate under scheduling was done in the California PX day ahead markets by both load serving entities and generators in order to affect market prices. This forced the ISO to go into the real time markets to make up the difference between what was scheduled and what was needed to keep the system in balance. Under such conditions, the ISO paid very high prices. Perhaps even more important, last minute resource imbalances pose reliability concerns.

Another market design defect was placing entirely too much reliance on the spot market. Spot markets and real time markets are almost by nature volatile. By way of analogy, a traveler purchasing his ticket while passengers are boarding the plane would expect to pay the highest price. While the spot market is the appropriate venue to secure limited portions of needed supply, it should not be relied upon for most or all of the supply portfolio. Unfortunately, there were rather severe state regulatory restrictions on the degree to which load serving utilities in California could forward contract. Surely purchasers having access to a balanced portfolio of long-term and short-term supply must be an ingredient of well-functioning markets.

There has also been a lack of demand responsiveness to price. This is a standard means of moderating prices in well-functioning markets, but it is generally absent from

electricity markets. When prices for other commodities get high, consumers can usually respond by buying less, thereby acting as a brake on price run-ups. If the price, say, for a head of cabbage spikes to \$50, I simply don't purchase it. Without the ability of end use electricity consumers to respond to prices, there is virtually no limit on the price that suppliers can fetch in shortage conditions. This is a defect in virtually all U.S. electricity markets.

Finally, there was a spike in natural gas prices in the winter that drove up electric generation prices, because some of the least efficient gas-fired generators were the marginal facilities to be dispatched.

C. Withholding of Generation

I have been discussing what most observers generally agree have been contributing factors to the market problems. Market manipulation by some generators is also believed to have been present. On March 14, 2001, after a non-public investigation, the Commission issued an order to show cause against Williams Energy and AES alleging the withholding of RMR generation during April and May of 2000. The order seeks the refund of over \$10 million. While there is not universal agreement whether widespread withholding has occurred, I believe there is enough evidence to render this a reasonable suspicion. The Chairman of the California ISO's Market Surveillance Committee, Professor Frank Wolak, has repeatedly charged that the rapid escalation in price last summer was caused by market power and withholding of generation. A recent San Francisco Chronicle article, using data from the California ISO, challenges the notion that

supply was short during much of the price run up. For example, California consumption grew only 4.75 percent in 2000 from 1999, and average peak demand was only 4.79 percent higher. Demand growth was only 8.3 percent higher from May to August. I know that some also allege that market power can only be exercised during severe shortage conditions, but the ISO called only one Stage 3 alert (reserves of only 1.5%) during all of the year 2000, and that was in December. Yet prices soared beginning in June. The Commission has also received studies, most notably from Professors Paul Joskow and Edward Kahn, that indicated the market was manipulated by generators to drive up prices. While there are surely some legitimate supply inadequacies, I cannot help but suspect that some supply was withheld from the market by sellers.

II. State Government Actions

California is taking both short and long term measures intended to resolve the current market crisis. What's needed foremost is to close any gap between supply and demand. The state's program, as I understand it, is taking some steps to address this objective. One of California's major initiatives is entering long term contracts with generators to assure a reasonably priced and reliable supply of electricity. FERC has encouraged long term contracting. The state placed itself in the position of power purchaser because of the credit problems of the state's major utilities.

Unfortunately, the state is signing long term contracts at a time when the spot market prices are very high and volatile and the market has been dysfunctional. Long term contract prices are based on the expectations of future spot market prices. California

may be creating a new stranded cost problem by signing contracts that are too long and at too high a price. Long term contracts protect against volatility, but they do not protect against high prices.

I am also aware that California is acting to speed up new supplies of electricity capacity. The state has identified 32 potential sites suitable for peaking plants that could be sited under the state's emergency siting process, streamlined somewhat its review of new plants, proposes to provide bonuses to plant developers to accelerate plant construction, and is providing incentives for distributed and renewable generation. These measures seem to be on target, although I have no way of predicting whether they will be sufficient.

The state has also announced an energy conservation program that it hopes will reduce peak load by 3,200 MWs this summer. This also is on target. For the longer term, however, I would strongly recommend that California, and indeed all states, explore ways of increasing the responsiveness of demand to price signals. Without the ability of end use consumers to respond to price, there is virtually no limit on the price suppliers can fetch in shortage conditions. This does not make for a well functioning market.

Instilling demand responsiveness into electricity markets requires two conditions: customers must be able to see prices before they consume, and they must have reasonable means to adjust consumption in response to those prices. Accomplishing both of these on a widespread scale will require technical innovation. A modest demand response, however, can make a significant difference. A recent study by the Electric Power

Research Institute (EPRI) indicates that during this past summer, a 2.5% demand reduction at peak times could have reduced energy costs in California by \$700 million. Other studies show that price spikes can be reduced by 73% if just 10% of demand is on real time pricing.

And once there is a significant degree of demand responsiveness in a market, demand should be allowed to bid so called "negawatts" into organized markets along with the megawatts of the traditional suppliers. This direct bidding would be the most efficient way to include the demand side in the market. But however it is accomplished, the important point here is that market design simply cannot ignore the demand half of the market without suffering the consequences, especially during shortage periods.

The state of California is also actively exploring a purchase of the transmission assets of the three major investor owned utilities. Such an action, if it comes to pass, raises a number of issues. First, will it help stabilize the electricity markets in California? The answer to this is uncertain. Over time, I believe that state ownership might help bring better coordination with public power transmission owners, thereby improving grid operation. A state owned grid may provide a better chance of making needed transmission improvements at constraint points, such as the infamous Path 15 that is responsible for substantial congestion in California.

The other major issue raised by a state purchase of the transmission facilities is how will the Commission view the transfer? The Commission has jurisdiction of such a transfer under section 203 of the Federal Power Act. One of our major review criteria is

the effect of the transfer on competition. We would not view favorably any asset transfer that is inconsistent with the requirements of regional competitive wholesale markets. I am personally indifferent whether the state or private interests own the transmission assets. I have strong views, however, on how those assets are operated. The Commission should consider conditioning the asset transfer on participation in a Regional Transmission Organization with a more expanded scope than California. This would ensure open access and efficient and non-discriminatory operation of these critical strategic assets.

III. The Federal Role

The fundamental problems in the California market must be addressed by short and long terms actions. Siting authority for bringing on new generation and transmission facilities currently rests with state and local authorities, as does the authority to improve the retail price signals so that customers can respond better to market conditions. There are, however, a number of actions that the can taken at the federal level to fix the broken market in California and ensure well functioning electricity markets throughout the nation. Some can be achieved by the Commission under present authority, and some will require legislation.

A. Commission Action Under Current Authority

The Commission should do all it can to narrow the gap between supply and demand in the short term and bring immediate price relief to consumers and businesses. Last week, the Commission issued an order that is aimed at removing obstacles to

increased supply in the western United States. This order addresses modest short term actions. Among them are: temporary waivers of operating and efficiency standards for QFs, market based rate authority for sales from generation at business locations, and authorizing customers to "sell" load reduction at market based wholesale rates.

These quick fix measures, though well motivated, will not close the gap between supply and demand substantially in the short term. Current estimates are that California will be at least several thousand megawatts short this summer. Moreover, it is generally agreed that demand in California and elsewhere in the West is not responsive enough to prices. So we will have a severe shortage of supply, and demand that is not responsive to price signals. In these circumstances, what will restrain prices? Absolutely nothing. California ISO market monitors reported that in such circumstances last summer, there was no constraint whatsoever on the prices generators could bid and still get dispatched. The situation this coming summer may be worse by orders of magnitude. The Commission has already found that the dysfunctional market in California is not producing just and reasonable prices. Addressing these problems is a long term endeavor. Unfortunately, market participants are forced to purchase in today's markets, and at prices that are arguably unlawful under the Federal Power Act.

1. Immediate Price Mitigation

I am very concerned with the economic effects of the current market meltdown. The price shocks of short supply threaten serious economic dislocation and harm in the region. Already, factories are closing and utilities throughout the West are asking for

exceptional rate increases. Bonneville is doubling its rates to cover wholesale purchased power costs: the City of Tacoma, Washington, has voted a 50-70 % increase. State regulators are put in a tough spot. Refusing the price increases could threaten their utilities with bankruptcy. But allowing the rate increases could unleash a political backlash from consumers who think the prices in the wholesale markets are a blatant rip-off. An article in the March 13, 2001 *Wall Street Journal* reported that the current western energy crisis could cut disposable household income by \$1.7 billion and cost 43,000 jobs over the next three years in Washington state alone. Some fear that it could tip the whole region into a recession. Moreover, the current volatile and high prices, which may be worse by magnitudes this coming summer, are devastating consumer and investor confidence in a market based approach to electricity regulation.

Over the past three months, I have attended and spoken at two separate conferences sponsored by the Western Governors Association dealing with these issues. Scores of market participants and western public officials spoke passionately and eloquently about the nature of the problems they face. Certainly the issue of supply is a big problem that must be addressed, but so is the issue of price. Without price protection, there is huge concern out West about what the summer will bring in terms of high wholesale prices and volatility. If the West experiences another summer like the last, I fear for the future viability of our policy favoring wholesale competition. It may suffer irreparably.

The Commission must initiate a formal section 206 investigation into the appropriateness of effective price mitigation in the Western interconnection until the longer term solutions are in place and the markets operate normally. This investigation would assess whether conditions in the Western interconnection are preventing competitive market operation, how long those conditions are expected to last, and possible wholesale price mitigation. We would also inquire about how any mitigation measures should be applied and how long they should last. A specific sunset provision is important to maintain investor confidence that price mitigation is temporary and imposed only to deal with a poorly functioning market and to provide an incentive to ensure that the market problems are addressed expeditiously. Most importantly, a section 206 investigation would set a refund effective date 60 days hence so that the Commission can protect consumers if our investigation finds that prices are not just and reasonable.

It is time for FERC to call a time out from this broken western electricity market. At this point, high prices that exceed production and operating costs serve no useful purpose. Is it worth dragging down an entire regional economy, or perhaps even the national economy, for the theoretical purity of an unfettered price signal? I say no. FERC should consider a temporary cost-based price cap on sales in the Western interconnection. Such a price cap could be calculated on a generator-by-generator basis at each generator's variable operating costs plus a reasonable capacity adder perhaps in the range of \$25/MWH. New generation sources should be exempt. In addition, such a

cap should have a well specified sunset provision, tied either to a date certain or the attainment of certain specific conditions, such as some measure of adequate reserves.

Such a wholesale price cap would allow generators to recover all their operating costs plus a return, so generators should have every incentive to provide power to the grid. In addition, such a cap would restore credibility to wholesale market prices, and thereby make any retail rate increases politically saleable. Surely suppliers have gotten the message by now that more supply is needed. They no longer need such extreme signals.

2. Good Market Structure

Over the longer term, the Commission must insist on a good market structure that will produce just and reasonable prices. The difficulty is that good structure cannot be easily parsed between wholesale and retail jurisdictions. A well functioning wholesale market is needed for a well functioning retail market. For example, retail prices will suffer if the wholesale market is not characterized by competition and rational grid operation. Wholesale prices cannot be disciplined without adequate generation and transmission facilities sited by state and local officials, and without substantial numbers of retail customers seeing accurate market price signals and having the ability to react to them. This relationship means the Commission and the states must work together. But the bottom line is that the Commission must insist on a good wholesale market structure.

One key element of good structure in California and the West is a single Regional Transmission Organization for the entire Western interconnection. I firmly believe that RTOs consistent with FERC's vision in Order No. 2000 are absolutely essential for the smooth functioning of electricity markets. RTOs will eliminate the conflicting incentives vertically integrated firms still have in providing access. RTOs will streamline interconnection standards and help get new generation into the market. A West-wide RTO will help ensure access to the western power market, improve transmission pricing, regional planning, congestion management, and produce consistent market rules across the West. We know for a fact that resources will trade into the market that is most favorable to them. Trade should be based on true economics, not the idiosyncracies of differing market rules across the region.

To realize these many potential benefits, RTOs must be truly regional in scope - - large and well shaped. Markets are regional in scope - - this has been well demonstrated recently as prices over the entire West rose and fell with events in California. Thus, we need an RTO that covers the entire West. At last Wednesday's Commission meeting, Chairman Hebert indicated that he shares this objective, and I welcome his commitment.

As mentioned earlier, the California market is defined by an over reliance on the volatile spot market. The Commission has recently encouraged substantial forward contracting by wholesale purchasers. Although some progress has been made in this area, it does not appear that significant forward hedging contracts will be in place for the

summer. Substantial reliance on forward contracts is a key element of good market structure. The Commission must insist that this element is in place.

Another element of good market structure is an *ex ante* assurance of adequate generating capacity, including a reserve margin requirement. The California market design called for no capacity obligations and very little forward contracting. Presumably, it was expected that the invisible hand of the market would ensure that capacity would show up when needed. Yet, given that electricity cannot be stored, relying solely on market signals for capacity could mean significant fluctuations of price and capacity availability as supply and demand adjust. The fundamental role that electricity plays in the social, economic, health and public safety fabric of our society, however, argues that substantial fluctuations in availability and price should be minimized. One way of guarding against these fluctuations would be to place an *ex ante* reserve requirement on the load serving entities that they could meet however they see fit. This is the current practice in PJM, and, given the level of capacity additions planned there, suppliers seem to have confidence in that market design.

Markets also need demand responsiveness to price. Without the ability of end use consumers to respond to price, there is virtually no limit on the price suppliers can fetch in shortage conditions. Consumers see the exorbitant bill only after the fact. This does not make for a well functioning market. I addressed demand responsiveness earlier in this testimony.

Good market structure also requires attention to efficient congestion management, the sequence of bidding, reasonable market rules and other details. It is generally recognized that the best functioning wholesale electricity market in the United States is the Pennsylvania, New Jersey, Maryland Interconnection, known as PJM. PJM has an excellent market structure that incorporates virtually all of the elements that I have mentioned. Market participants tell me that they have great confidence in the PJM market design. PJM works. The Commission should replicate the PJM structure in all U.S. wholesale electricity markets, including California and the West.

Even with our best efforts to put in place well structured electricity markets, however, there may be times when those markets fail to do their job. When markets fail, the Commission must be aggressive in ensuring just and reasonable prices. If the states cannot depend on the wholesale market regulator to ensure reasonable prices for consumers, then states will surely think twice before heading down the restructuring path. Moreover, ensuring just and reasonable prices is our statutory mandate, and there is no exception for dysfunctional markets.

3. Mitigating Market Power

The task of ensuring reasonable prices in wholesale markets must be addressed by FERC far differently now than under the old regime. It's much harder now. Our focus is no longer on the costs of individual companies. Instead, our focus is on markets and ensuring that they are free of market power and have the needed components to function

well. This means that we must have the data, the analytic capability and the manpower to do the job well. FERC has yet to instill confidence in this policy area.

In order to protect against market power, the Commission must identify and clearly define what constitutes an exercise of market power. We must update our market power standards. Is it market power when a generator regularly bids above its variable operating costs? I say yes, but the record in our California proceeding indicates there is no consensus on this issue. We need to develop clear standards for what is not acceptable market behavior. We cannot expect players to follow the rules when the rules haven't even been posted. We must ensure that markets are adequately monitored, and that the monitoring and policing task is equipped with the right data, and with sufficient manpower, to do the job. And when market monitors in California and elsewhere tell us that market power is being exercised, we must not ignore their pleas. We must forcefully respond.

And finally, the Commission must aggressively intervene when the markets are not producing reasonable prices. New electricity markets need a lot of attention. They are just emerging from almost a century of monopoly regulation. Moreover, the unique characteristics of electricity make the markets exceptionally vulnerable to market power and to the potential for breathtaking price run-ups when supply is short. Billions of consumer dollars are at stake, so we must conduct tough-minded investigations. We have to be willing to impose a time out on markets that are not functioning. Even the venerable New York Stock Exchange uses circuit breakers to mitigate exceptional price

fluctuations. When the stock market drops by a set percentage, the NYSE halts trading. In fact, all of the world's most sophisticated commodity markets have time outs.

The Commission must demonstrate through decisive action a more forceful commitment to these tasks. This market crisis began last June with California's clearly dysfunctional market. On December 15, we found that the California market rules in combination with the imbalance of supply and demand have caused, and will continue to cause, unjust and unreasonable prices. High prices are rippling throughout the West causing great alarm and economic pain for citizens. Yet, the Commission has failed to provide any effective price relief. Our statutory mandate requires more forceful action by the Commission to resolve this crisis.

B. Federal Legislation

There also is a need for federal legislation to ensure that the nation reaps the benefits of well-functioning electricity markets in California and beyond. I would not advocate a legislative solution for all of the causes of the recent problems in the California market. Many market design flaws, the lack of hedging, and the lack of demand side responsiveness can be addressed under existing authorities. But I do believe that this experience has demonstrated that electricity markets are inherently interstate in nature. Prices throughout the western United States rose and fell with events in California. In order to thrive, such markets must have an open, non-discriminatory, well managed, and efficiently priced interstate transmission network that links buyers and sellers of power. The existing patchwork of inconsistent and outdated jurisdictional rules

for this essential interstate delivery system, coupled with splintered network management, create obstacles and uncertainties that undercut the market. If buyers and sellers lack confidence that electric power will be delivered reliably and on reasonable terms and conditions, they will not commit resources to those markets.

Legislation should facilitate the development of a reliable and efficiently organized grid platform upon which vibrant wholesale markets can be built. Jurisdictional uncertainties or anomalies should be eliminated, the development of Regional Transmission Organizations should be ensured, and the authority to site interstate transmission facilities should reside with an interstate authority.

My recommendations for federal legislation fall into five broad areas.

First, Congress should place all interstate transmission under one set of open access rules. That means subjecting the transmission facilities of municipal electric agencies, rural cooperatives, the Tennessee Valley Authority, and the Power Marketing Administrations to the Commission's open access rules.

In addition, all transmission, whether it underlies an unbundled wholesale, unbundled retail, or bundled retail transaction, should be subject to one set of fair and non-discriminatory interstate rules administered by the Commission. This will give market participants confidence in the integrity and fairness of the interstate delivery system, and will facilitate robust trade by eliminating the current balkanized state by state rules on what is essentially an interstate delivery system.

Second, I continue to strongly believe that the development of well structured Regional Transmission Organizations is a necessary platform on which to build efficient electricity markets. The full benefits of RTOs to the marketplace will not be realized, however, if they do not form in a timely manner, if they are not truly independent of merchant interests, or if they are not shaped to capture market efficiencies and reliability benefits. While the Commission may have more authority regarding RTOs than it has exercised thus far, I nevertheless recommend that the Congress clarify existing law to authorize the Commission to require the formation of RTOs and to shape their configuration.

Third, we need mandatory reliability standards. Vibrant markets must be based upon a reliable trading platform. Yet, under existing law there are no legally enforceable reliability standards. The North American Electric Reliability Council (NERC) does an excellent job preserving reliability, but compliance with its rules is voluntary. A voluntary system is likely to break down in a competitive electricity industry.

I strongly recommend federal legislation that would lead to the promulgation of mandatory reliability standards. A private standards organization (perhaps a restructured NERC) with an independent board of directors would promulgate mandatory reliability standards applicable to all market participants. These rules would be reviewed by the Commission to ensure that they are not unduly discriminatory. The mandatory rules would then be applied by RTOs, the entities that will be responsible for maintaining short-term reliability in the marketplace. Mandatory reliability rules are critical to

evolving competitive markets, and I urge Congress to enact legislation to accomplish this objective.

Fourth, the FERC needs the authority to site new transmission facilities. The transmission grid is the critical superhighway for electricity commerce, but it is becoming congested due to the increased demands of a strong economy and to new uses for which it was not designed. Transmission expansion has not kept pace with these changes in the interstate electricity marketplace. The Commission has no authority to site electric transmission facilities that are necessary for interstate commerce. Existing law leaves siting to state authorities. This contrasts sharply with section 7 of the Natural Gas Act, which authorizes the Commission to site and grant eminent domain for the construction of interstate gas pipeline facilities. Exercising that authority, the Commission balances local concerns with the need for new pipeline capacity to support evolving markets. We have certificated 10,000 miles of new pipeline capacity over the last six years. No comparable expansion of the electric grid has occurred.

I recommend legislation that would transfer siting authority to the Commission. Such authority would make it more likely that transmission facilities necessary to reliably support emerging regional interstate markets would be sited and constructed. A strong argument can be made that the certification of facilities necessary for interstate commerce to thrive should be carried out by a federal agency.

Finally, I recommend legislation that would give the Commission the direct authority to mitigate market power in electricity markets. It should be clear by now that,

despite our efforts, market power still exists in the electricity industry. The FERC, with its broad interstate view, must have adequate authority to ensure that market power does not squelch the very competition we are attempting to facilitate. However, the Commission now has only indirect conditioning authority to remedy market power. This is clearly inadequate. Therefore, I recommend legislation that would give the Commission the direct authority to remedy market power in wholesale markets, and also to do so in retail markets if asked by a state commission that lacks adequate authority.

Conclusion

I stand ready to assist the Subcommittee in any way, and I thank the you for this opportunity to testify.